

CEMETERY AND FUNERAL BUREAU

FINAL STATEMENT OF REASONS

Hearing Date: August 25, 2003

Subject Matter of Proposed Regulations: Cemetery and Crematory Manager
Licensing Categories

Sections Affected: Title 16, California Code of Regulations, Division 23, Sections 2317, 2317.1, 2317.2, 2326.5 & 2328.1

Updated Information: The Initial Statement of Reasons is included in the file.

Local Mandate: The proposed regulations do not impose any mandate on local agencies or school districts.

Business Impact: The Bureau has made an initial determination that this action will not have a significant statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states.

These regulations will have an impact on businesses for reporting a change of cemetery manager or crematory manager and an impact on individuals for examination, licensure and an annual renewal fee to maintain the license. Costs were estimated at \$50.00 per change of cemetery or crematory manager and \$800.00 for the cemetery manager examination and \$450.00 for the crematory manager examination. Annual renewal fees are proposed at \$80.00. The estimate of the total number of businesses impacted is the total number of cemeteries and crematories currently licensed by the Bureau (193 cemeteries and 180 crematories).

Underlying Data: Statutes 2002, chapter 825, SB 1952 (Figueroa) and Statutes 2002, chapter 819, SB 17 (Figueroa)

Consideration of Alternatives: No reasonable alternative which was considered or that has otherwise been identified and brought to the attention of the Bureau would be either more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulation.

Summary of Comments Received and Bureau Response

A summary of comments received regarding this rulemaking file and the Bureau's response to those comments are included in this Final Statement of Reasons. The actual written comments received are included in the rulemaking file under Tab G. A

summary of the transcript of the public hearing is contained in the rulemaking file under TAB H.

Six individuals appeared at the hearing, and four individuals presented oral comments. Dick Fallbeck, President, California Funeral Directors Association (CFDA) provided both written and oral comments. Chris Micheli, Carpenter, Snodgrass and Associates representing SCI California Funeral Services, Inc.; and Clayton Guzman and Reg Duran representing the Association of California Cremationists supported comments made by the CFDA.

COMMENT: Mr. Fallbeck, from the CFDA submitted written comments and oral comments stating that the examination fees specified and proposed in Sections 2317.1 and 2317.2 are somewhat excessive. Mr. Fallbeck stated that the examination fees would be serious deterrents for individuals seeking to make themselves more employable. He indicated that employee's who are working for the average crematory operator's salary would likely find the proposed fees an obstacle and the cost of failing and retesting is equally prohibitive. He stated that if the cemetery or crematory is covering the fees rather than being paid by the applicant the costs would be passed on to consumers. Mr. Fallbeck suggested the Bureau seek the advice of the Advisory Committee in determining a more reasonable alternative to increasing these fees.

RESPONSE: The Bureau rejects this comment. The intent of the legislation enacting examination fees was to have the examination fee pay for the costs of examination development and administration. The proposed fees were calculated based on the average number of candidates for each examination over the last three year period and divided into the costs of examination development and administration. It was the Legislature's intent that the examinations be self supporting. No other alternative to this funding source meets the intent of the Legislature.

COMMENT: Chris Micheli, Carpenter, Snodgrass and Associates representing SCI California Funeral Services requested that Section 2317.2's title heading be amended to include Request to Share "Manager" Fee. Mr. Micheli stated he appreciated the provision in Section 2326.5 allowing sharing of cemetery managers. He stated that they concurred with comments submitted by the CFDA.

RESPONSE: The Bureau accepts this comment in part and rejects in part. The title heading of Section 2317.2 will be amended to provide clarification. This modification is a change without regulatory effect to correct the grammar of the regulatory title heading for purposes of clarity. The regulation itself has not been amended. With regards to the commentator's support for comments submitted by the CFDA, the Bureau rejects said comments. See response to comments from CFDA.

COMMENT: Clayton Guzman, Association of California Cremationists stated that he concurred with comments submitted by the CFDA. Mr. Guzman stated that the fees are a substantial increase and excessive compared to other Department of Consumer Affairs (DCA) licenses issued by other Boards or Bureaus.

RESPONSE: The Bureau rejects this comment. As stated in the response to the comment from CFDA, the fees are consistent with the legislative intent that the examinations be self supporting.

COMMENT: Reg Duran, Association of California Cremationists concurs with comments made by CFDA and Clayton Guzman. Mr. Duran stated that it was his understanding that all examinations would go into "one pool" in order to share the costs. He stated that it has been done this way in the past when establishing fees for other examinations, and that he believed the costs would be funded by part of the \$8.50 interment and cremation fee assessed from cemeteries and crematories. Mr. Duran stated that he thought that when the examinations were given without fees, that the \$8.50 interment and cremation fee subsidized the examination costs. He gave the example of a crematory operator employed by a crematory that he knew that would not be able to afford the \$450 examination fee, because he would have to pay it himself and that a fee of \$200 would be more affordable. Mr. Duran asked that the Bureau consider comments from other individuals who commented regarding the assessment of examination fees, and consider reducing the proposed fees.

RESPONSE: The Bureau rejects this comment. See the response to the CFDA. It is the intention of the Legislature and the Bureau that the proposed examination fees cover the cost of examination development and administration.